



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

October 21, 1998

Charles C. Black, Treasurer  
Bob Barr - Congress  
231 Maxham Road, Suite 100  
Austell, GA 30001

RE: MUR 4802  
Bob Barr - Congress

Dear Mr. Black:

On August 27, 1998, the Federal Election Commission found that there is reason to believe that Bob Barr - Congress ("Committee") and you, as treasurer, violated 2 U.S.C. § 441a(f), 2 U.S.C. § 434(b)(3)(A), and 2 U.S.C. § 434(a)(6), which are provisions of Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

The Commission has authorized the Office of General Counsel to enter into pre-probable cause conciliation with the Committee. If you are interested in pursuing such conciliation, please inform us in writing.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

Charles C. Black  
Bob Barr - Congress  
MUR 4802  
Page 2

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Scott E. Thomas  
Acting Chairman

Enclosures

*Factual and Legal Analysis*  
*Procedures*  
*Designation of Counsel Form*

cc: Congressman Robert L. Barr

2025-01-23 10:01:00

**FEDERAL ELECTION COMMISSION  
FACTUAL AND LEGAL ANALYSIS**

MUR: 4802

RESPONDENT: Bob Barr - Congress and Charles C. Black, as treasurer

**I. GENERATION OF MATTER**

This matter was generated by an audit of Bob Barr - Congress (the "Committee") and Charles C. Black, as treasurer, undertaken in accordance with 2 U.S.C. § 438(b). The audit covered the period from January 27, 1995 to December 31, 1996.

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Excessive Contributions**

**1. Applicable Law**

The Federal Election Campaign Act of 1971, as amended (the "Act"), provides that no person may make contributions to a candidate and his or her committees which, in the aggregate, exceed \$1,000 per federal election. 2 U.S.C. § 441a(a)(1)(A). Furthermore, no candidate or political committee shall knowingly accept any contribution which exceeds the contribution limitations of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).

Contributions not designated in writing for a particular election are considered designated for the candidate's next election for federal office. 11 C.F.R. § 110.1(b)(2)(ii). A joint contribution must include the signatures of each contributor on the check or in a separate writing. 11 C.F.R. § 110.1(k)(1). If a contribution on its face or in the aggregate exceeds the contribution limitations, the committee must return the contribution to the contributor or deposit the

contribution in a designated campaign depository and obtain a written redesignation or reattribution from the contributor within 60 days. 11 C.F.R. §§ 103.3(b)(3) and 110.3(b)(4).

If no written redesignation or reattribution is obtained within 60 days, the committee must refund the contribution. *Id.*; 11 C.F.R. §§ 110.1(b)(5)(ii) and 110.1(k)(3)(i).

Committees must report the identity of each person who makes a contribution or contributions which exceed \$200, along with the date and amount of the contribution. 2 U.S.C. § 434(b)(3)(A); 11 C.F.R. § 104.3(a)(4)(i).

## **2. Facts**

The Audit Division's review of the contribution records revealed that the Committee accepted 94 excessive contributions totaling \$54,971.<sup>1</sup> The Audit Division's review included a computer file of contribution records and deposit records, such as copies of checks and deposit tickets. The Audit Division determined that the documentation was virtually complete with respect to contributions received by the Committee from January 27, 1995 (the date of the first contribution) to August 31, 1996 and incomplete concerning contributions received between September 1, 1996 and December 31, 1996. For example, for the latter period, the check copies that were available totaled only 77% of the amount of contributions for the period.

*With respect to the excessive contributions, the Committee did not properly report \$50,615. First, the Committee did not itemize contributor names and amounts of 12 excessive contributions totaling \$7,945. Second, an excessive contribution of \$2,000 was reported as a \$1,000 contribution. Third, the Committee reattributed 24 excessive contributions totaling*

---

<sup>1</sup> Subsequently, the Committee provided documentation to demonstrate that two contributions attributed to a contributor were not excessive because the contributions were actually attributable to the contributor and to his spouse. Thus, the amount of excessive contributions totaled \$52,971.

\$22,700 and redesignated 19 excessive contributions totaling \$17,970 without obtaining written authorizations.

In response to the Interim Audit Report, the Committee stated that the excessive contributions were not detected "due to a data management that could not keep up with the volume of contributions." The Committee filed amended reports to itemize the excessive contributions. The Committee also refunded the excessive contributions. It appears that the Committee maintained sufficient funds in its account to make refunds, but the refunds were not made within the required time period for making refunds.<sup>2</sup> 11 C.F.R. 103.3(b)(3).

### 3. Analysis

The Committee accepted excessive 92 contributions totaling \$52,971, which was approximately 8% of the dollar amount of all contributions from individuals. The excessive contributions were refunded eventually, but not within sixty days of receipt of the contribution as required by 11 C.F.R. § 103.3(b)(3). It appears that the Committee reported \$50,615 of these excessive contributions incorrectly. Thus, the Committee caused the public record to be *inaccurate with respect to these contributions and made it appear as if the contributions were within the Act's limitations.*

In regard to 12 of these 92 excessive contributions, the Committee deposited the excessive contribution checks, but did not itemize the contributions. The contributions either exceeded \$200 on their face or when aggregated with other contributions from contributors

---

<sup>2</sup> In September 1996, the Committee prepared refund checks to contributors who had exceeded the contribution limit, but subsequently voided those checks. However, the Committee reissued the refund checks in October 1996. Upon being questioned by the Audit Division regarding the voiding of the checks, a Committee staffer stated that the Committee wanted to keep their cash on hand position looking as strong as possible. In response to the Interim Audit Report, the Committee issued refund checks to additional contributors that the Audit staff identified as having exceeded the contribution limit. As of May 12, 1998, the Committee has provided

exceeded \$200. Thus, the Committee was required to itemize the name and address of the contributor and the amount of the contribution. 2 U.S.C. § 434(b)(3)(A); 11 C.F.R. § 104.3(a)(4)(i). However, the Committee reported the contributions only as part of the total amount of unitemized contributions. By not itemizing these contributions, the contributor names and amounts do not appear on the public record.

In regard to an excessive contribution of \$2,000, the Committee reported the contribution in the amount of \$1,000. *See* 2 U.S.C. § 434(b)(3)(A); 11 C.F.R. § 104.3(a)(4)(i). By not reporting the actual amount of the contribution on the public record, the excessive nature of the contribution was not evident.

Furthermore, the Committee appeared to reattribute and redesignate contributions without authorizations. During the 1996 election cycle, the Commission's Report Analysis Division sent numerous inquiries to the Committee regarding the Committee's acceptance of excessive contributions. Thereafter, the Committee amended its disclosure reports to reflect the reattribution of 24 contributions totaling \$22,700, and the redesignation of 19 contributions totaling \$17,970. However, the Committee did not obtain written authorizations for the reattributions and redesignations. *See* 11 C.F.R. §§ 110.1(b)(5)(ii) and 110.1(k)(3)(ii). Therefore, the Committee's reattribution and redesignation of those contributions were improper. As a consequence of the Committee's actions, the actual contributors or actual designated elections were not timely disclosed on the public record. 11 C.F.R. §§ 104.3 and 104.8.

Therefore, there is reason to believe that Bob Barr - Congress and Charles C. Black, as treasurer, violated 2 U.S.C. § 441a(f) by accepting excessive contributions.

---

documentation to the Audit staff that all refund checks have cleared the Committee's checking account except four checks totaling \$2,180.

**B. Itemized Reporting of Contributions**

Committees must report the identity of each person who makes a contribution or contributions which exceed \$200, along with the date and amount of the contribution. 2 U.S.C. § 434(b)(3)(A).

The Committee did not itemize 12 contributions totaling \$7,945. In response to the Interim Audit Report, the Committee filed amended disclosure reports to correct the public record.

Therefore, there is reason to believe that Bob Barr - Congress and Charles C. Black, as treasurer, violated 2 U.S.C. § 434(b)(3)(A).

**C. Failure to File Forty-Eight Hour Notices**

The principal campaign committee of a candidate shall notify the Secretary or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of \$1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. 2 U.S.C. § 434(a)(6). This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution. 2 U.S.C. § 434(a)(6).

The primary election was held on July 9, 1996. The Audit staff identified 19 contributions totaling \$29,804, deposited between June 20, 1996 and July 6, 1996, requiring 48-hour notices. The Committee failed to file the required notices for all of these contributions. In response to the Interim Audit Report, the Committee argued that it assumed the notices were unnecessary since the candidate was unopposed in the primary election.

Moreover, the general election was held on November 5, 1996. The Audit staff identified 60 contributions totaling \$74,000 deposited between October 17, 1996 and November 2, 1996 requiring 48-hour notices. Of those 60 contributions, the Committee failed to file the required notices for 18 contributions totaling \$20,000. In response to the Interim Audit Report, the Committee conceded that it had failed to file 48-hour notices for 18 contributions received during the general election.

Therefore, there is reason to believe that Bob Barr - Congress and Charles C. Black, as treasurer, violated 2 U.S.C. § 434(a)(6) by failing to file the required 48-hour notices on 19 contributions received for the primary election, and on 18 contributions received for the general election.